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PETITIONS OFFICE

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In re Application of :  
Ana L. Weiland et al. : DECISION ON PETITION UNDER  
Application No. 08/532,383 : 37 CFR 1.48(b)  
Filed: September 22, 1995 :  
Attorney Docket No. QCPA101D1A :

This is a decision on a September 22, 1995 petition under 37 CFR 1.48(b), requesting correction of the inventorship.

The petition under 37 CFR 1.48(b) is Dismissed.

The instant application was filed on September 22, 1995 pursuant to 37 CFR 1.62 as a FWC of prior Application No. 08/406,432 filed March 20, 1995. The prior application named as the inventors: Ana L. Weiland, Richard K. Kornfeld, Richard J. Kerr, John E. Maloney, and Nathaniel B. Wilson.

Concomitantly submitted with the instant application papers were: a filing fee of \$758 (with authorization to charge any fee deficiencies), a preliminary amendment adding claims 13-20, and a petition and fee under 37 CFR 1.48(b), seeking to delete Richard J. Kerr and Nathaniel B. Wilson as inventors in view of a June 27, 1995 examiner's amendment to the claims in the prior application and the September 22, 1995 preliminary amendment in the instant § 1.62 application. The petition states that in view of the June 27, 1995 amendment and the September 22, 1995 preliminary amendment, Ana L. Weiland, Richard K. Kornfeld and John E. Maloney are the only inventors of the remaining claims.

An additional independent claims fee of \$200 will be charged to Deposit Account No. 17-0026, because applicant submitted a check for only \$758 with the application papers, while a total filing fee of \$958 was required (\$730 basic filing fee plus \$228 excess independent claims fee).

Co-pendency between the parent and instant applications was established in that: A notice of allowance was mailed in the parent application on June 27, 1995, giving applicant until September 27, 1995 to pay the issue fee therein.

Petitions under § 1.48(b) provide for deletion of inventors where prosecution of the application (which occurs after the application is properly executed or filed), in which the petition is filed, results in a need to adjust the inventorship based on amendments to the claims and is not available to assist in the execution or the filing of an application. MPEP 201.03, page 200-9, 37 CFR 1.48(b).

Accordingly, the instant § 1.48(b) petition, which seeks to affect the initial naming of the inventorship, is Dismissed.

Notwithstanding the dismissal of the § 1.48(b) petition, the petition will be treated as the required statement under 37 CFR 1.62(a) requesting deletion of the names of persons who are not inventors of the invention being claimed in the § 1.62 application.

The instant application is being forwarded to the Initial Patent Examination Division of the Office of Initial Patent Examination for further processing, including issuance of a filing receipt, with the names of the inventors listed as Ana L. Weiland, Richard K. Kornfeld and John E. Maloney.



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